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Office of Campaign and Political Finance

One Ashburton Place, Room 411

Boston, MA 02108

Advisory Opinion

May 31, 2000

AO-00-09

Steven R. Maher
170 Oxford Street
Auburn, MA 01501

Re: Auburn Committee on Education

Dear Mr. Maher:

This letter is in response to your May 15, 2000 request for an advisory opinion.

You are the attorney for the Auburn Committee on Education (the Committee), which is a registered ballot question committee. You have stated that in March 2000 the Auburn Board of Selectmen called a special Town Meeting for the purpose of appropriating \$47 million to build a new high school and renovate the existing middle school. There were two warrant articles involved. On March 16, 2000 the Town Meeting approved the two warrant articles to appropriate the funds.

Mr. Alex Pappas, the chairman and treasurer of the Committee, began a petition drive to require the town to schedule a special election to challenge the Town Meeting votes. He also filed a statement of organization for the Committee, which stated that the purpose of the Committee was to challenge the two town meeting votes and "act on anything relative thereto."

On March 27, 2000 the Auburn Board of Selectmen voted to deny Mr. Pappas' petitions for a special election. Mr. Pappas responded by filing a class action lawsuit against the Board of Selectmen seeking a court order requiring the special elections to be held. He intends to seek certification as a representative of a class of Auburn residents (those who signed the petition for a special election).

You have stated that Mr. Pappas is interested in maintaining the Committee in existence until such time as the special election is held, assuming the lawsuit is successful. You have asked three questions, each of which are answered below.

Questions

1. May the Committee remain in existence pending the outcome of the lawsuit?

Answer: Yes. A ballot question committee is a political committee “which receives or expends money or other things of value for the purpose of favoring or opposing the adoption or rejection of a specific question or questions submitted to the voters . . .” See M.G.L. c. 55, §§ 1 and 6B. Such a committee must dissolve after the election in which the question specified on its “statement of organization” was on the ballot. See M.G.L. c. 55, § 18.

The Statement of Organization filed by the Committee stated that the Committee was organized to challenge, through a ballot question, two Town Meeting votes. The Committee may remain in existence until the ballot question(s) are held, or if it is ultimately decided by the court that there will be no such ballot question, until that decision is finally made. If the court’s decision is contrary to your goal of forcing a ballot question to take place and you appeal that decision, the ballot question committee must dissolve if it is unsuccessful in its appeal.

While it remains in existence it may not raise funds and make expenditures to support or oppose other ballot questions, even if they may relate to other school renovation or building issues.

2. What are the reporting requirements for the Committee under these circumstances?

Answer: The Committee must comply with the reporting requirements specified in M.G.L. c. 55, § 18, i.e., it must file a year-end campaign finance report, Form CPF M102, complete through December 31, by January 20 of each year until the committee dissolves, even if no question is on the ballot. The report must reflect all contributions, expenditures and liabilities. Therefore, if the Committee makes expenditures or incurs liabilities to obtain legal representation, the report must reflect such activity. Once a question is on the ballot, the Committee must also file eight days before and thirty days after the election. See enclosed *Campaign Finance Guide: Municipal Ballot Question Committees* for more information.

3. May the Committee be used as a vehicle to raise funds for the payment of the legal expenses associated with the lawsuit?

Answer: Yes. A ballot question committee may raise funds and make expenditures only “for the enhancement of the . . . principle . . . for which the committee was organized.” See M.G.L. c. 55, §§ 6 and 7. Regulations issued by this office to implement this provision specify that in accordance with section 6, ballot question committees may make expenditures “relative to necessary legal action to protect or further the interests of the political committee.” See 970 CMR 2.06(6)(a)3.

An expenditure for legal fees incurred to file a lawsuit intended to compel the election for which the committee was organized would be within the scope of this regulation.

Steven R. Maher
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This opinion is issued within the context of the Massachusetts campaign finance law and is provided on the basis of representations in your letter. Please contact us if you have further questions.

Sincerely,

Michael J. Sullivan
Director

Enclosure
cc: Elizabeth L. Prouty, Auburn Town Clerk

Sincerely,

A handwritten signature in cursive script, reading "Michael J. Sullivan", followed by a vertical line.

Michael J. Sullivan
Director